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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,415

11/21/2003

Dusan Pavcnik

PA-5360-RFB

3409

9896

7590

12/07/2006

COOK GROUP PATENT OFFICE

P.O. BOX 2269

BLOOMINGTON, IN 47402

EXAMINER

PRONE, CHRISTOPHER D

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,415

Applicant(s)

PAVCNIK ET AL.

Examiner

Christopher D. Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) 3,13,15 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-12,16-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 9-11, 14, 17, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,865,723 Love.

Love discloses the same invention comprising expandable first inner stent 16, expandable second outer stent 14, and a tissue graft layer 12 comprising a extra cellular matrix material collagen disposed on the first stent and under the second. Love also discloses that the stent may comprise a plurality of circumferential segments and a plurality of tie bars shown in figure 9. In regards to claims 17, figure 2 of Love shows that the outside diameter of the first stent is greater than the inside diameter of the second stent. In regards to claim 18 Love further discloses that the first and second stents have equivalent inside and outside diameters (7:25-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Love in view of United States Patent 6,358,284 B1 Fearnot et al.

Love discloses the invention substantially as claimed being a stent tissue graft. However, Love does not disclose that the tissue graft comprises multiple layers of submucosa.

Fearnot teaches the use of tubular grafts comprising layers of submucosa sheets in the same field of endeavor for the purpose of providing enhanced repair of damaged or diseased host tissues.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the submucosa tissue graft layers as taught by Fearnot with the stent graft of Love in order to provide enhanced repair of damaged or diseased host tissues.

Claims 1, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent 5,628,788 Pinchuk in view of United States Patent 6,358,284 B1 Fearnot et al.

Pinchuk discloses the invention substantially as claimed being a double-layered stent graft wherein the inner stent is smaller than the outer stent. However, Pinchuk does not disclose that the graft comprises multiple layers of tissues.

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Fearnot teaches the use of tubular grafts comprising layers of submucosa tissue sheets in the same field of endeavor for the purpose of providing enhanced repair of damaged or diseased host tissues.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the submucosa tissue graft layers as taught by Fearnot with the double layered stent graft of Pinchuk in order to provide enhanced repair of damaged or diseased host tissues.

Response to Arguments

Applicant's arguments filed 10/13/06 have been fully considered but they are not persuasive. The applicant argues that the amendment to the claims requiring that the distal and proximal ends of the stents and grafts coincide overcomes the art of record. However it is abundantly clear from the figures of both Love and Pinchuk that all the proximal and distal ends coincide. The first figure of Love is the only figure that may appear to be different, but this figure has had a portion of the graft cut away to better show the structure of the implant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday Through Fri 8:30 to 5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CDP

Christopher D Prone
Examiner
Art Unit 3738


CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700